IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6114 OF 2005

Shankar Gangaram Rajpure ..Petitioner.

Vs.

The District Rehabilitation Officer, Satara & Ors. .. Respondents.

...

Mr. P.J. Shinde for the Petitioner.

Mrs. M.P. Thakur, Assistant Government Pleader for Respondent Nos.1 to 5.

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CORAM: KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

20th April, 2006.

P.C. :

1. In the course of the hearing of the Petition, counsel appearing on behalf of the Petitioner states that the Petitioner has no objection to the acquisition of his lands comprised in Survey No.242. Therefore, there is no controversy in regard to the acquisition of these lands.

2. From the record before the Court, it would appear that in the course of the report under Section 5-A of the Land Acquisition Act, 1894, the Sub-Divisional Officer and the District Resettlement Officer had recommended that the lands of the

Petitioner should be deleted from the acquisition for the reasons which were set out in the report. In fact, it appears that initially when the declaration under Section 6 came to be issued on 23rd May, 1998, lands admeasuring 9 Ares from Survey No.217 (Part) were excluded from acquisition. The learned Assistant Government Pleader has, however, drawn the attention of the Court to a declaration dated 13th October, 1997 by which this exclusion came to be rectified. The grievance of the Petitioner is that the declaration under Section 6 was issued by the Commissioner without considering the report of the Sub-Divisional Officer and the District Resettlement Officer under Section 5-A of the Land Acquisition Act, 1894. Having regard to the nature of the grievance, it would be appropriate to direct that the Commissioner should reconsider the question as to whether the lands of the Petitioner are required to be acquired. For the aforesaid purpose, it would be open to the Commissioner to cause a survey to be made of the lands which are under the residential house and cattle shed which are required otherwise to be excluded from computing the holding under the slab. The Commissioner shall reconsider the matter after giving to the Petitioner an opportunity of being heard and it would be open to the Petitioner to file an additional

representation to the Commissioner within a period of three weeks from today. The Commissioner shall pass fresh orders thereafter preferably within a period of three months. Until the Commissioner decides the matter, status quo in regard to possession shall be maintained. The Petition is accordingly disposed of.

In the event that the Commissioner comes to the conclusion that the lands of the Petitioner are required to be acquired, it would be open to the Petitioner to offer alternative lands for acquisition and if any such offer is made within a period of four weeks of the decision of the Commissioner, the competent authority shall consider the same in accordance with law.

CHIEF JUSTICE

(DR. D.Y. CHANDRACHUD, J.)